

CALL TO ORDER

IN REGULAR SESSION Monday, April 4, 2016 at 7:00 P.M. in the Council Chambers of Town Hall, 323 West Michigan Avenue, Marshall, MI, the Marshall City Council was called to order by Mayor Reed.

ROLL CALL

Roll was called:

Present: Council Members: Gerten, McNeil, Metzger, Mayor Reed, Schurig, and Williams.

Also Present: City Manager Tarkiewicz and Clerk Nelson.

Absent: Council Member Miller.

Moved Williams, supported Metzger, to excuse the absence of Council Member Miller. On a voice vote – **MOTION CARRIED.**

INVOCATION/PLEDGE OF ALLEGIANCE

Council Member Jon Gerten gave the invocation and Mayor Reed led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Moved Metzger, supported Schurig, to approve the agenda with the following changes: Remove item 11A. Zoning /Sign Ordinance Update and revise the dollar amount in item 12D. Sewer Lining-Monroe Street to be \$53,591. On a voice vote – **MOTION CARRIED.**

PUBLIC COMMENT ON AGENDA ITEMS

None.

CONSENT AGENDA

Moved Williams, supported McNeil, to approve the Consent Agenda:

- A. Schedule a public hearing for Monday, April 18, 2016 to hear public comment on issuing an Obsolete Property Rehabilitation Exemption to 101 W. Michigan Avenue;
- B. Schedule a public hearing for Monday, April 18, 2016 to hear public comment regarding a P.A. 425 Land Transfer for 726 North Old US 27;
- C. Minutes of the City Council Regular Session held on Monday, March 21, 2016;
- D. Approve city bills in the amount of \$ 2,089,658.69.

On a voice vote – **MOTION CARRIED.**

PRESENTATIONS AND RECOGNITION

A. Introduction of New Patrol Officer:

Chief Schwartz administered the Oath of Honor to Patrol Officer Brian Phillips.

B. Land Bank Presentation:

Krista Trout-Edwards, Executive Director of Calhoun County Land Bank, gave a presentation to Council regarding the operations of the Land Bank.

INFORMATIONAL ITEMS

None.

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

A. Industrial Facilities Tax Exemption Certificate Application for Mor-Dall Enterprises, LLC:

MAEDA CEO, Scott Fleming, provided background regarding the application for an Industrial Facilities Tax Exemption Certificate for Mor-Dall Enterprises, LLC at 511 S. Kalamazoo Avenue.

Mayor Reed opened the public hearing to hear public comment regarding the application.

Hearing no comment, the hearing was closed.

Moved Schurig, supported Metzger, to approve the application for an Industrial Facilities Tax Exemption Certificate for Mor-Dall Enterprises, LLC at 511 S. Kalamazoo Avenue. On a roll call vote – ayes: Gerten, McNeil, Metzger, Mayor Reed, Schurig, and Williams. **MOTION CARRIED.**

**CITY OF MARSHALL, MICHIGAN
RESOLUTION #2016-09**

Minutes of a regular meeting of the City Council of the City of Marshall held on April 4, 2016, in the Council Chambers of Town Hall, located at 323 West Michigan Avenue, Marshall, Michigan.

Present: Gerten, McNeil, Metzger, Mayor Reed, Schurig, and Williams.
Absent: Miller.

The following preamble and resolution were offered by Council Member Schurig and supported by Council Member Metzger.

**RESOLUTION TO APPROVE APPLICATION OF
MOR-DALL ENTERPRISES
511 S. KALAMAZOO,**

**INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE FOR
PERSONAL PROPERTY - NEW MACHINERY AND EQUIPMENT**

WHEREAS, pursuant to P.A. 198 of 1974, MCL 211.551 et seq., after a duly noticed public hearing held on August 16, 2010, the Council by Resolution established Industrial Development District No. D-31 as requested; and

WHEREAS, Mor-Dall Enterprises has filed an application for an Industrial Facilities Exemption Certificate with respect to personal property improvements and the acquisition and installation of new machinery and equipment within Industrial Development District D-31; and

WHEREAS, in accordance with Act 334, P.A. 1993 amending Act 198, P.A. 1974, a written agreement shall be executed between the applicant and the City of Marshall allowing, under specific circumstances, the reduction and/or revocation of the certificate and recapture of the taxes abated; and

WHEREAS, before acting on said application, the City of Marshall held a hearing on April 4, 2016 in the Council Chambers of Town Hall, located at 323 West Michigan Avenue, Marshall, Michigan, at 7:00 p.m. at which hearing the applicant, public, Assessor and a representative of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, the acquisition and installation of the new equipment, had begun earlier than six (6) months before March 16, 2016, the date of acceptance of the application for the Industrial Facilities Exemption Certificate; and

WHEREAS, the acquisition of the new equipment and machinery is calculated to and will, at the time of issuance of the certificate, have the reasonable likelihood to retain, create or prevent the loss of employment in the City of Marshall; and

WHEREAS, the granting of said certificate shall not have the effect of substantially impeding the operation of the City of Marshall, or impairing the financial soundness of a taxing unit which levies ad-valorem property taxes in the City of Marshall; and

WHEREAS, the aggregate SEV of personal property exempt from ad valorem taxes within the City of Marshall, after granting this certificate, will exceed 5% of an amount equal to the sum of the SEV of the local unit, plus the SEV of personal property thus exempted; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marshall that:

1. The City Council find and determine that the granting of the Industrial Facilities Exemption Certificate considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 198 of the Public Acts of 1974, shall not have the effect of substantially impeding the operation of the City of

Marshall, or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Marshall.

2. The application of Mor-Dall Enterprises, 511 S. Kalamazoo, for an Industrial Facilities Exemption Certificate, with respect to personal property improvements described as new machinery and equipment to be acquired and installed within the Industrial Development District No. D-31 is hereby approved.

3. The Industrial Facilities Exemption Certificate, when issued, shall be and remain in force and effect for a period of (12) twelve years under the rules and regulations of Act 198 of Public Acts of 1974, as amended, for the new machinery and equipment from the date of approval by the State Tax Commission.

AYES: Gerten, McNeil, Metzger, Mayor Reed, Schurig, and Williams.

NAYS: None.

Trisha Nelson, City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Council of the City of Marshall, County of Calhoun, Michigan, at a regular meeting held April 4, 2016.

Trisha Nelson, City Clerk

B. Stormwater Ordinance:

Kristin Bauer, Director of Public Services, provided background regarding the establishment of a new Stormwater Management Ordinance and the new conditions required for the City's wastewater plant NPDES (National Pollutant Discharge Elimination System) permit.

Mayor Reed opened the public hearing to hear public comment regarding the Chapter 54: Stormwater Management ordinance.

Hearing no comment, the hearing was closed.

Moved Metzger, supported Williams, to approve the addition of Chapter 54: Stormwater Management to the City of Marshall Code of Ordinances. On a voice vote: **MOTION CARRIED.**

ORDINANCE #2016-04

**CITY OF MARSHALL
CALHOUN COUNTY, MICHIGAN
CHAPTER 54**

STORMWATER MANAGEMENT

AN ORDINANCE TO AMEND THE CITY OF MARSHALL, MICHIGAN CODE OF ORDINANCES; TO ADD NEW CHAPTER 54, TO PROVIDE AUTHORITY FOR STORMWATER MANAGEMENT ENFORCEMENT, AND TO REPEAL ALL OTHER ORDINANCES OR PARTS THEREIN INCONSISTENT OR CONTRARY TO THIS ORDINANCE; AND TO PROVIDE FOR AN EFFECTIVE DATE FOR THIS ORDINANCE.

THE CITY OF MARSHALL ORDAINS:

Section 1:

54.01 General

The purpose of this article is to protect the public health, safety and welfare of city residents and to protect property values, quality of life, and natural systems relating to stormwater runoff control and management. In addition to the requirements herein, all projects shall comply with the City of Marshall requirements including but not limited to all rules and regulations pertaining to Site Plan approval and Building Permit approval.

54.02 Findings

The City finds that uncontrolled stormwater runoff from developed land adversely affects the public health, safety, and welfare because:

- (A) The addition of impervious surfaces alters the natural hydrologic cycle, increasing peak flows and total stormwater runoff volume. This scenario results in environmental degradation through increased flooding, channel erosion, pollution, and ultimately increases the cost of maintaining drainage infrastructure downstream of a development.
- (B) Improper collection and conveyance of stormwater adversely affects off-site property and increases the incidence and severity of flooding, which can endanger property and human life.
- (C) Increased erosion leads to sedimentation in stormwater management systems that decrease their hydraulic capacity and increases the likelihood of pollution in our rivers.
- (D) Stormwater runoff contains numerous pollutants, such as heavy metals, dangerous bacteria from animal excrement, nitrogen, and phosphorus, all of which adversely impact downstream water bodies and endanger the health of humans and other living organisms.

- (E) The City has adopted a master plan that establishes proposed land use and infrastructure service needs for undeveloped areas of the City.
- (F) Inadequate soil erosion and sedimentation control practices can cause increased turbidity, the cloudiness caused by having soil particles suspended in the water column.

54.03 Objectives

It is the intent of this ordinance to protect, maintain, and enhance the health, safety, and general welfare of the citizens of the City by:

- (A) Protecting and maintaining the physical, chemical, and biological integrity of groundwater and surface waters.
- (B) Preventing activities that adversely affect groundwater and surface water resources.
- (C) Encouraging the use of stormwater management systems that approximate natural systems and mimic the pre-development hydrologic response as closely as is practical.
- (D) Ensuring that post-development stormwater runoff peak flow rates, total runoff volumes, and pollutant loadings are no greater than would occur under pre-development conditions.
- (E) Maintaining and restoring groundwater levels.
- (F) Preventing damage to wetlands and other natural resources.
- (G) Minimizing soil erosion and sedimentation.
- (H) Requiring surface and stormwater management practices that comply with the requirements of this chapter and with the post-development runoff Minimum Control Measures, as recommended by the Michigan Department of Environmental Quality (MDEQ) and Environmental Protection Agency (EPA).
- (I) Promoting the development of stormwater retention and detention facilities that are aesthetically desirable, maintainable, and functional.
- (J) Follow the direction established by the City's Master Plan.

54.04 Definitions

Definitions of terminology used in this chapter shall be as follows:

Base Flood Elevation (BFE). The elevation delineating the level of flooding resulting from the 100-year frequency flood discharge.

Bioretention. A water quality feature that uses landscaping and engineered soil media to treat stormwater runoff by collecting it in shallow depressions before filtration and/or infiltration. Where underlying soils have inadequate infiltration capacity, a bioretention area may contain an underdrain to promote dewatering.

Best Management Practice (BMP). A practice or combination of practices that prevent, minimize, or reduce pollution and other effects of stormwater runoff.

Building. A structure that is principally above ground and is enclosed by walls and a roof. The term includes but is not limited to a gas or liquid storage tank, a manufactured home, carport, mobile home, or a prefabricated building. This term also includes recreational vehicles and recreational vehicles to be installed on a site for more than 180 days.

City. The City of Marshall, including staff and elected officials.

Compensatory storage. An excavated, hydraulically equivalent volume of storage used to offset the loss of natural flood storage capacity when artificial fill or structures are placed within a floodplain.

Construction. Any on-site activity that will result in the creation of a new stormwater management system, including the building, assembling, expansion, modification, or alteration of the existing contours of the property; the erection of buildings or other structures, or any part thereof, or land clearing.

Control device. The element of a discharge structure that allows the gradual release of water under controlled conditions, sometimes referred to as bleed-down.

Control elevation. The lowest elevation at which water can be released through the control device.

Control structure. A structure designed to control the rate of flow that passes through the structure, given a specific upstream and downstream water surface elevation.

Director. The Director of Public Service and/or City Engineer and/or his or her designees.

Detention. The collection and temporary storage of stormwater in such a manner as to provide treatment through physical, chemical, or biological processes with subsequent gradual release of the stormwater.

Development. Any of the following:

- (1) Construction, installation, alteration, demolition, or removal of a structure impervious to surface stormwater management system; or
- (2) Clearing, scraping, grubbing or otherwise removing or killing the vegetation of a site; or
- (3) Adding, removing, exposing, excavating, leveling, grading, digging, dumping, or otherwise disturbing the soil or rock of a site in a manner that is contrary to the requirements of this chapter.

Discharge structure. A structural device usually constructed of a material such as concrete, metal or timber through which water from a stormwater management system is discharged and a controlled rate from a site to a receiving drainage component.

Drain. A channel, natural depression, slough, stream, creek or pipe in which storm runoff and floodwater can flow. This includes systems installed to carry urban storm runoff.

Drainage area. The land area above a given point that contributes stormwater to that point.

Dry detention. Water storage with the bottom elevation at least one foot above the control elevation. Sumps, swales, and other minor features may be at a lower elevation.

Elevation. The height in feet above mean sea level. All references to elevation shall be at the NAVD88 Vertical Datum.

Facility. Any development required per the provisions of this chapter to construct and maintain a Stormwater Management System.

FEMA. The Federal Emergency Management Agency and its regulations.

Floodplain (regulatory). Floodplains that may be either riverine or non-riverine depressional areas.

- (1) **Riverine floodplains.** Those areas contiguous to a lake, pond, or stream whose elevation is greater than the normal water pool elevation but equal to or lower than the projected 100-year flood elevation.
- (2) **Non-riverine floodplains.** Depressional storage areas not associated with a stream system which surrounding lands drain causing periodic inundation by storm waters. In certain cases, the floodplain may also be known as the Special Flood Hazard Area (SFHA).

Flood Protection Elevation (FPE). The elevation of the base flood or 100-year frequency flood plus a minimum 1 foot of freeboard at any given location in the Special Flood Hazard Area (SFHA).

Floodway (regulatory). The channel, including onstream lakes, and that portion of the floodplain adjacent to a stream or watercourse as designated by the FEMA floodplain maps, which is needed to store and convey the existing and anticipated future 100-year frequency flood discharge with no more than a 1-foot increase in stage due to the loss of flood conveyance or storage.

Historic discharge or volume. The peak rate or volume at which stormwater runoff leaves a parcel of land in an undisturbed, natural site condition by gravity, or the legally allowable discharge at the time of permit approval.

Impervious surface. A surface that has been compacted or covered so that it is highly resistant to infiltration by water.

NOAA Atlas 14. The preferred source of statistical data for rainfall depths for design storm selection. NOAA Atlas 14 supersedes all previous references for rainfall depths, including TP 40, Bulletin 71, or any other document from state agencies referencing rainfall depths.

NPDES Permit. National Pollutant Discharge Elimination System permit. The Clean Water Act prohibits the discharge of "pollutants" through a point source into a water of the United States without an NPDES permit. The permit will contain limits on what you can discharge, monitoring and reporting requirements, and other provisions to ensure that the discharge does not hurt water quality or people's health. In essence, the permit translates general requirements of the Clean Water Act into specific provisions tailored to the operations of each person discharging pollutants.

Overflow elevation. The design elevation of a discharge structure at which or below which, water is contained behind the structure except for that which discharges through a control device down to the control elevation.

Professional Engineer. A Professional Engineer registered in Michigan who is competent in the fields of hydrology, hydraulics, and stormwater management.

Retention. The prevention of or to prevent the discharge of a given volume of stormwater runoff into surface waters by complete on-site storage and infiltration. Retention design requires demonstration of adequate onsite soils to provide infiltration.

Soil conservation plan. A document prepared or approved by the local Soil and Water Conservation District Board that outlines a system of management practices to control stormwater and soil erosion, reduce sediment loss, or protect receiving water quality on a specific parcel of property.

Special Flood Hazard Area (SFHA). Any base flood area subject to flooding from a river, creek, stream, or any other identified channel or ponding and shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map as Zone A, AO, A1-30, AE, A99, AH, VO, V30, VE, V, M, or E.

Stormwater. The flow of water that results from runoff that occurs during and immediately following a rainfall event.

Stormwater management plan (SWMP). A plan for receiving, handling, and transporting stormwater and surface waters within the City stormwater management system. This manual shall be used in conjunction with this Chapter.

Stormwater management system. Includes all natural and man-made elements used to convey stormwater from the first point of impact with the surface of the earth to a suitable outlet location internal or external to the boundaries of the City. The stormwater management system includes all pipes, channels, streams, ditches, wetlands, sinkholes, detention/retention basins, ponds, and other stormwater conveyance and treatment facilities, whether public or private.

Structure. A man-made change to the land constructed on or below the ground, including the construction, reconstruction or placement of a building or any addition to a building; installing a manufactured home on a site; preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days; and includes retaining walls, tanks and manholes.

Surface water. Water that finds its way to an open channel without infiltrating into the soil.

Swale. A man-made trench that:

- (1) Has a top depth-to-width ratio of the cross-section equal to or greater than 1:6, or side slopes equal to or greater than 3 feet vertical to 1 foot horizontal; and
- (2) Contains contiguous areas of standing or flowing water only following a rainfall event; and
- (3) Is planted with or has stabilized vegetation suitable for soil stabilization, surface water treatment, and nutrient uptake; and
- (4) Is designed to take into account the soil erodibility, soil percolation, slope, slope length, and drainage area so as to prevent erosion and reduce pollutant concentration of any discharge.

Total Suspended Solids (TSS). The particles or other solid material suspended in stormwater or stormwater runoff. Commonly expressed in concentration of milligrams per liter (mg/l) or parts per million (PPM).

Watershed area. Any drainage area contributing surface and stormwater runoff to the City stormwater management system.

Wet detention. Permanent water storage below the control elevation of the detention pond that will effectively remove total suspended solids (TSS).

Water course. A natural or artificial channel, whether lined or unlined, in which a flow of storm water, ground water or clean water occurs, either continuously or intermittently.

54.05 Applicability

This ordinance shall apply to all land within the City of Marshall. No person may subdivide, develop, change to a more intense land use, construct or reconstruct a structure, or change the size of a structure, except as hereinafter exempted, without complying with the terms of this chapter.

54.06 Exemptions

The following shall be exempt from the requirements of this chapter:

- (A) Construction of single-family or duplex homes on individual lots that are part of a larger subdivision with a city approved stormwater management plan.
- (B) Maintenance activity that does not change or affect the quality, rate, volume, or location of stormwater flows on the site or runoff from the site.
- (C) Bona fide agricultural pursuits for which a soil conservation plan has been approved by the local Soil and Water Conservation District.
- (D) Action taken under emergency conditions to prevent imminent harm or danger to persons or to protect property from imminent fire, violent storms, tornadoes, flooding, or other hazards, whether man-made or naturally occurring.

54.07 Nonconforming Areas

When any of the following improvements are made to an existing development that currently does not conform to this chapter, such improvements shall comply whether or not the existing development has received an approval prior to adoption of this chapter.

- (A) Floor area expansion: The gross floor area of a structure is expanded by more than ten percent or more than 4,000 square feet, whichever is less. Repeated expansions of a development constructed over a period of time commencing with the effective date of this chapter

shall be combined in determining whether the threshold has been reached.

- (B) Use change: The use of a development changes to a more intense classification.
- (C) Site alteration: A site alteration activity requires the submission of a development plan or amended development plan and involves ten percent or more of the site area.
- (D) Reconstruction: A structure is reconstructed following substantial destruction by fire or other calamity. A structure is considered substantially destroyed if the cost of reconstruction is fifty percent or more of the fair market value of the structure before the calamity.
- (E) In any case, notwithstanding items A-D above, if the improvements propose a ½ acre of new impervious area or more than 1 acre of total disturbed area, the whole site shall comply with this chapter.

54.08 Requirements.

This section sets forth specific design and construction standards that will be used in review of proposed stormwater management systems in accordance with the objectives of managing both the quantity (volume and rate) and quality of stormwater runoff.

- (A) These requirements shall apply to all public and private sites within the City, regardless of whether the stormwater outlet(s) from the site discharge to a designated county drain, City storm sewer system, waters of the state or any other types of conveyance.
- (B) These requirements shall also apply to sites under the control of public agencies such as schools, Federal and State governmental facilities, and other entities that might not otherwise be subject to site plan review procedures and requirements as set forth in other sections of the City's codified ordinances.
- (C) A stormwater management plan shall be submitted to the City, with exception to those activities listed in section 54.06 of this chapter. All new developments shall comply with this chapter and requirements as set forth in the City's SWMP, as required. Any proposed redevelopment proposing greater than ½ acre of new impervious area or more than 1 acre of total disturbed area shall comply with this chapter and the SWMP, as required.
- (D) Refer to the City of Marshall Stormwater Management Plan for specific submittal and design requirements.

- (E) The City of Marshall reserves the right to direct site plan stormwater designs and submittals to adhere to all or part of the Calhoun County Technical Reference Manual, latest edition.

54.09 Storm water storage facilities and/or BMP's:

Stormwater storage facilities and/or BMP's shall be implemented to protect water quality and prevent adverse flooding on-site and off-site. This is to improve the quality of stormwater runoff and reduce the discharge of sediment into wetlands, watercourses, roadways, structures and other property within, and downstream of the City of Marshall.

- (A) Natural watercourses shall not be dredged, cleared of vegetation, deepened, widened, straightened, stabilized or otherwise altered without approval from the Michigan Department of Natural Resources and/or Calhoun County Water Resources Commissioner.
- (B) Discharge of runoff from commercial and industrial sites which may contain oil, grease, toxic chemicals, or other polluting materials shall be prohibited unless approval has been obtained from the Michigan Department of Natural Resources and Calhoun County Water Resources Commissioner.
- (C) The use of stormwater management areas and vegetated buffer areas as open space, recreation, and conservation areas shall be encouraged.
- (D) Pipes, conduits, ditches, drains, or other conveyance facilities shall not discharge directly to the following without providing the minimum treatment volume and channel protection criteria (refer to the City of Marshall Stormwater Management Plan):
 - (1) Any natural watercourses, including lakes, ponds, rivers and streams.
 - (2) Wetlands with unique or natural wildlife or habitat characteristics as defined by a professional wetlands delineation specialist, biologist or ecologist.
 - (3) Wetlands which are within a 500 foot distance of any natural lake or pond.
 - (4) Wetlands which are within a 100 foot distance of any river or stream.
 - (5) City of Marshall stormwater conveyance system.
- (E) Discharges from stormwater conveyance facilities shall be routed through swales, vegetated buffer strips, stormwater basins, hydrologically isolated wetlands, and other facilities designed to decrease runoff velocity and volume, allow for natural infiltration, allow suspended solids to settle, and remove pollutants.
- (F) If wetlands are proposed for stormwater detention, runoff must be diffused to non-erosive velocities before it reaches the wetlands.

- (G) No storm water management plan shall be approved if the City of Marshall finds that the action will or is likely to pollute, impair or destroy air, water or other natural resources or the public trust therein, provided that there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare.

54.10 Right of entry; furnishing information.

Representatives of the City of Marshall, State of Michigan, or Calhoun County Water Resources Commissioner's office shall have the right to enter at any reasonable time any property served by a storm water drainage facility. Entry shall be limited to review and inspection of storm water drainage facilities as required to ensure compliance. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the drainage system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of unlawful discharge.

- (A) Operation and Maintenance: All structural and vegetative best management practices installed as a performance standard for storm water management shall include a plan for maintaining maximum performance through long-term operation and maintenance (O&M). The plan shall include a schedule for O&M procedures and recordkeeping provisions such as periodic inspections.
- (B) Records Retention: Inspections and other records pertaining to the O&M of best management practices for storm water quality protection shall be maintained by the property owner and retained for a minimum of five years.

54.11 Compliance with other permits

Any person subject to a NPDES stormwater discharge permit, Calhoun County soil erosion and sedimentation control permit, or City of Marshall site plan review shall comply with all provisions of such permit or approvals. Proof of compliance with said permits or approvals may be required in a form acceptable to the City of Marshall prior to the allowing of discharges to the stormwater system.

54.12 Monitoring and Access of discharges

- (A) As a condition to having a direct connection to waters of the State or to the municipal separate storm sewer system (MS4) an industrial or commercial facility shall permit the City to enter and inspect the stormwater facilities, at reasonable times and in a reasonable manner, to determine compliance with this chapter and the City's SWMP. Such entry and inspection may include but not be limited to sampling, analysis, dye testing, smoke testing, remote video inspection (TV-ing), and examination and/or copying of records that are required by this chapter to be maintained.

- (B) The City may require a commercial or industrial facility that discharges into the stormwater system to install devices as are reasonably necessary to monitor and/or sample the facility's stormwater discharge to ensure compliance with this chapter and the SWMP. In the alternative, and at the City's option, the City may install such devices. All such devices shall be calibrated to ensure accuracy.
- (C) The City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining entry to a facility if the City's designated personnel has been refused access to any part of the premises from which stormwater originates and/or is discharged, and if the City is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community. In addition, or in the alternative, the City's designated personnel, if denied entry, may terminate the facility's connection to the stormwater system. Such termination must be preceded by written notice to the facility of such intent.

54.13 Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices

- (A) If the owner or operator of a facility does not provide reasonable protection from illicit discharge, the City may require best management practices (BMP's) and/or stormwater pollution prevention plans (SWPPP's) for a facility that discharges, or is reasonably suspected of discharging, pollution into the stormwater system, at the facility's expense. A BMP shall be consistent with the guidelines set forth in the most current MDEQ Guidebook of BMP's for Michigan Watersheds, or equivalent practices and design criteria that accomplish the purposes of this chapter, as approved by the City. A BMP and/or a SWPPP, which may be imposed even if the facility is subject to a NPDES permit, shall be communicated in writing by City's designated personnel to the facility.
- (B) If the owner or operator believes all or a portion of the BMP or SWPPP is unreasonable, it may appeal for a variance in accordance with the provisions of this chapter.

54.14 Notification of spills

- (A) Notwithstanding other requirements of law, as soon as any person/facility responsible for a facility, or responsible for emergency response for a facility, has information of a release, or suspected release, of pollutants into the stormwater system, said person shall take all reasonable and necessary

steps to discover, contain, and clean up such release, including, if necessary, contacting emergency response agencies. Said person shall also notify the City's designated personnel of the discharge either in person, by telephone, or by facsimile as soon as possible, but in no event more than six hours after learning of the release.

- (B) All spill notifications provided to the City's designated personnel in person or by telephone shall be documented by said person in writing and mailed to the City of Marshall within five business days of said incident. Such written notice shall specify the following:

- (1) The composition of the discharge and the cause thereof;
- (2) The exact date, time, and estimated volume of the discharge;
- (3) All measures taken to clean up the discharge,
- (4) All measures proposed to be taken to reduce and prevent any recurrence;
- (5) The name and telephone number of the person making the report;
- (6) The name of the person who may be contacted for additional information on the matter. The person shall also provide the City of Marshall with copies of all documents the person submits to state or federal agencies relating to the same release.

54.15 Enforcement

- (A) Whenever the City's designated personnel finds that a person/facility has violated a provision of this chapter, the city may order compliance by issuing a written notice of violation to the responsible person. Such notice may require one or more of the following:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of an illicit connection or discharge;
- (3) That violating discharges, practices, or operations cease and desist;
- (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (5) The abatement and correction of any degradation of riparian habitat and aquatic life caused by the failure to design, install, operate, or maintain sediment control, stormwater management, or agricultural BMP's in accordance with an approved sediment control plan, stormwater plan, sediment control permit, Soil Conservation and Quality Plan, or plan for compliance;
- (6) The reimbursement to the City in an amount sufficient to reimburse the City for all reasonable administrative and remediation costs;
- (7) The implementation of source control or treatment BMP's.

- (B) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or

restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be done by the City, with the expense thereof charged to the violator.

54.16 Appeal of notice of violation

- (A) If an owner of property believes the requirements of this chapter impose an unreasonable burden on the use of the owner's property, the owner may seek a variance from the Director. Such a request must be in writing with enough detail to understand the situation and proposed variance. If the Director determines that additional information is needed, the request for additional information shall be made within 30 days of the owner's request. Within 30 days of the receipt of such additional information, or, if no such request is made, within 30 days of the owner's request, the Director shall issue a written response to the owner. The response shall grant, deny, or grant partial or different relief than was requested. A grant, partial or complete, may relieve the property owner from strict compliance of this chapter. Reasonable conditions may be imposed as part of such a grant. The Director shall be guided by the primary goal of protecting the waters of the State without creating undue hardship upon the property owners affected.
- (B) In determining whether to grant a variance, and conditions to impose, the Director shall be guided by the Performance Standards adopted by City Council Resolution from time to time.
- (C) Meting the Performance Standards may constitute exceptional challenges when contemplating redevelopment of existing sites. Any additional storm water imperviousness shall generally be off-set to the extent defined by the SWMP. However, to be consistent with the goals of this chapter, redevelopment is also generally expected to result in increased environmental protection whenever the overall site is not currently performing to these SWMP. Therefore, in determining whether to grant a variance and the conditions to impose, for a reconstruction project the Director shall be guided by seeking a minimum 20% improvement over existing conditions for water quality or water volume or both.
- (D) Any person receiving a Notice of Violation or whose variance request has been denied in whole or in part may appeal the determination set forth within the Notice or the variance decision to the Zoning Board of Appeals by submitting a written notice of appeal to the City. The notice of appeal must be received by the Director within 30 days from the date of the Notice of Violation, with enough detail to allow the Zoning Board of Appeals to understand the situation. Within 30 days of the receipt of an appeal, the Zoning Board of Appeals shall set the matter for hearing. Notice of the hearing shall be given in writing to the applicant and to the owner of the stormwater system. The applicant shall be given the opportunity to present evidence at the hearing in person or in writing or by representative. The Zoning Board of Appeals shall issue a written decision on the appeal. The

Zoning Board of Appeals response shall affirm, reverse, or modify the Notice of Violation being appealed.

- (E) If the person who has made an appeal does not agree with the Zoning Board of Appeals decision, said person may appeal the matter by filing an appeal in a Court of competent jurisdiction in the County of Calhoun, which may affirm, reverse or modify the decision being appealed. Such an appeal must be filed within 30 days of the Zoning Board of Appeals decision.
- (F) In considering all such appeals, the Director may grant a variance from the terms of this chapter so as to provide relief, in whole or in part from the action being appealed, but only upon finding that the following requirements are satisfied:
 - (1) The application of the chapter provisions being appealed will present or cause unreasonable difficulties for a facility; and
 - (2) The granting of the relief requested will not substantially prevent the goals and purposes sought to be accomplished by this chapter from being accomplished, nor result in less effective management of stormwater runoff.

54.17 Suspension of access to the stormwater system

- (A) The City may, after providing written notice, suspend stormwater discharge access to a person in violation of this chapter. Written notice shall describe the nature of the violation and the action necessary to correct the violation. If the violation continues for 10 calendar days after the notice was sent, the City may suspend discharge access into the stormwater system.
- (B) The City may suspend storm water discharge access to a person in violation of this chapter, without prior notice, when such suspension is necessary to stop an actual or threatened discharge that presents an imminent and substantial danger to the stormwater system or to the environment.

54.18 Abatement activities by the City

- (A) The City may perform reasonable and necessary abatement activities whenever the City determines a violation of this chapter has occurred and it appears that the responsible party cannot or will not timely perform said activities, or when no known responsible party exists. The responsible party shall reimburse the City for all reasonable expenses thus incurred.
- (B) If the City desires the responsible party to reimburse it for reasonable abatement activity expenses, the City shall, within 90 days of the completion of said activities, mail to that person a notice of claim outlining the expenses incurred, including reasonable administrative costs, and the amounts thereof. The person billed shall pay said sum in full within 30 days of receipt of the claim. If the person billed desires to object to all or some of the amount sought by the Director, said person may file, within the same thirty-day period, a written objection so stating. The Director shall, within 30 days of its receipt

of the objection, provide an opportunity for the objecting party to present facts or arguments supporting said objection. If the Director determines that some or the entire amount originally billed is appropriate, the person shall pay said sum within 30 days of receipt of that determination. If the amount due is not timely paid, the City may cause the charges to become a special assessment against the property and shall constitute a lien on the property.

54.19 Injunctive relief

If a person has violated or continues to violate the provisions of this chapter, the City may petition the appropriate court for injunctive relief restraining the person from activities which would create further violations, or compelling the person to perform necessary abatement or remediation.

54.20 Violations deemed a public nuisance

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City.

54.21 Penalty for violation

The penalty for violation of this chapter, in addition to the general code penalty, shall include revocation of site plan approval and revocation of any existing building permits for the site. The City may refuse any further permit applications until such time as the site has been brought into compliance with this chapter. A citation charging such a violation may be issued by the City's Ordinance Enforcement Officer, or his or her designee.

54.22 Existing Ordinances

All Ordinances or parts thereof in conflict herewith are hereby repealed and shall be of no further force and effect.

54.23 Severability

Any and all sections, terms, provisions and/or clauses herein shall be deemed independent and severable. Should any court of competent jurisdiction hold any section, term, provision or clause void and/or invalid, all remaining sections, terms, provisions and/or clauses not held void and/or invalid shall continue in force and effect.

Section 2. This Ordinance [or a summary thereof as permitted by MCL 125.3401] shall be published in the *Marshall Chronicle*, a newspaper of general circulation in the City of Marshall qualified under state law to publish legal notices. This Ordinance shall be recorded in the

Ordinance Book and such recording shall be authenticated by the signatures of the Mayor and the City Clerk.

Section 3. This Ordinance is declared to be effective immediately upon publication.

Adopted and signed this 4th day of April, 2016.

Jack Reed, MAYOR

Trisha Nelson, CITY CLERK

I, Trisha Nelson, being duly sworn as the City Clerk for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on April 4, 2016, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.

Trisha Nelson, CITY CLERK

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

A. Property Purchase for New Brewer Street Substation:

Moved Schurig, supported Metzger, to recuse Council Member Williams from voting. On a voice vote – **MOTION CARRIED.**

Moved Gerten, supported Schurig, to approve the property and easement purchase for \$80,000 and have the Clerk sign the necessary purchase documents and agreement with the Ella E.M. Brown Charitable Circle. On a roll call vote – ayes: McNeil, Metzger, Mayor Reed, Schurig, and Gerten; nays: none. **MOTION CARRIED.**

B. Fiber To The Premise Resolution:

Moved Williams, supported Metzger, to approve the resolution approving the initiation of the Fiber to the Premise project. On a voice vote – **MOTION CARRIED.**

CITY OF MARSHALL, MICHIGAN RESOLUTION #2016-10

**RESOLUTION AUTHORIZING ACTION IN FURTHERANCE OF THE FIBER TO
THE PREMISE PROJECT PURSUANT TO AND IN ACCORDANCE WITH
THE PROVISIONS OF ACT 48 OF THE PUBLIC ACTS OF THE STATE OF**

MICHIGAN OF 2002, AS AMENDED

At a regular meeting of the City Council of the City of Marshall, Michigan, held in the Council Chambers, Town Hall located at 323 W. Michigan Avenue, Marshall, Michigan, on the 4TH day of April, 2016 at 7 p.m.

PRESENT: Gerten, McNeil, Metzger, Mayor Reed, Schurig, and Williams. ABSENT:

Miller

MOTION BY: Council Member Williams.

SUPPORTED BY: Council Member Metzger.

WHEREAS, on May 18, 2015 and January 19, 2016, the City Council of the City of Marshall approved the expenditure of funds for the purpose for analyzing and determining the feasibility of the proposed Fiber to the Premise (FTTP) project for the City of Marshall; and

WHEREAS, the purpose of the FTTP project is to provide reliable ultra-high speed fiber internet connection availability to all city residents and businesses at a reasonable cost; and

WHEREAS, the City Council of the City of Marshall has identified ultra-high speed fiber internet connection availability to all city residents and businesses as an objective which promotes economic development, quality of life, housing development, city infrastructure, and otherwise furthers the major goals of the city's strategic plan; and

WHEREAS, the City Council of the City of Marshall recognizes that ultra-high speed fiber internet connection service is included within the definition of telecommunication service under Act 48 of the State of Michigan of 2002, as amended (Metro Act);

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marshall supports the pursuit of ultra-high speed fiber internet connection availability for all city residents and businesses; and

BE IT FUTHER RESOLVED that the City Council of the City of Marshall approves the following actions to be undertaken by city staff in furtherance of the goal of obtaining ultra-high speed internet connection availability for all city residents and businesses, pursuant to, and in accordance with, the provisions of Act 48 of the State of Michigan of 2002, as amended (Metro Act). The City Council recognizes that under the Metro Act, these actions are required prior to the passage of any

ordinance or resolution authorizing the city to either construct telecommunication facilities or provide telecommunication or cable modem service provided through a broadband internet access transport service.

1. **REQUEST FOR PROPOSAL (RFP).** Develop and issue a Request For Proposal (RFP) for competitive sealed bids which meets the requirements of the Metro Act and allows for the determination of whether a bidder is qualified to complete the work described in the RFP.
2. **COST-BENEFIT ANALYSIS.** If less than 3 qualified bids have been received from private providers, and more than 60 days has elapsed from the date the RFP was issued, the city may undertake a Cost-Benefit Analysis (CBA) for the construction of telecommunication facilities and the providing of telecommunication or cable modem service provided through a broadband internet access transport device. The CBA shall meet the requirements of the Metro Act and shall include reasonable projections for at least a 3 year period and total projected direct costs of and the revenues to be derived from constructing the telecommunication facilities and providing the telecommunication service.
3. **PUBLIC HEARING.** The City of Marshall shall conduct at least one public hearing before the passage of any ordinance or resolution authorizing the city to construct telecommunications facilities or provide telecommunication service. Notice of the hearing shall be provided as required by law and the hearing shall occur no sooner than 30 days from the release of the CBA.

BE IT FURTHER RESOLVED that should any section, clause or phrase of this Resolution be declared by the courts to be invalid, the same shall not affect the validity of this Resolution as a whole nor any part thereof other than the part so declared to be invalid.

AYES: Gerten, McNeil, Metzger, Mayor Reed, Schurig, and Williams.

NAYES: None.

ABSTAINED: None.

RESOLUTION DECLARED ADOPTED.

STATE OF MICHIGAN)
COUNTY OF CALHOUN) ss:

I, the undersigned, the fully qualified Clerk of the City of Marshall, State of Michigan, do hereby certify that the foregoing is a true and complete copy of a

resolution adopted by the City Council of the City of Marshall at a regular meeting held on the 4th day of April, 2016, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereunto set my official signature this 4th day of April, 2016.

Trisha Nelson, City of Marshall City Clerk

C. 2016 Strategic Plan:

Moved McNeil, supported Gerten, to adopt the 2016 Marshall Economic Development Strategic Plan. On a voice vote – **MOTION CARRIED.**

D. Sewer Lining – Monroe Street:

Moved Williams, supported Schurig, to approve the bid from Insituform Technologies of Howell, MI in the lump sum amount of \$53,591 and an additional contingency amount of \$6,409, for any possible additional piping that may be unaccounted for. On a roll call vote – ayes: Metzger, Mayor Reed, Schurig, Williams, Gerten, and McNeil; nays: none. **MOTION CARRIED.**

E. Schedule Budget Work Session:

City Council will be holding work sessions on Monday, April 18, 2016 at 5:30 p.m. and Tuesday, April 19, 2016 at 6:00 p.m. in the Training Room of City Hall to review the FY 2017 Proposed Budget.

APPOINTMENTS/ELECTIONS

None.

PUBLIC COMMENT ON NON-AGENDA ITEMS

None.

COUNCIL AND MANAGER COMMUNICATIONS

CLOSED SESSION

Moved Metzger, supported McNeil, to enter into Closed Session under section 8 (c) and (a) of the Open Meetings Act to discuss strategy for collective bargaining agreements and the periodic personnel evaluation of the City Manager. . On a roll call vote – ayes: Gerten, McNeil, Metzger, Mayor Reed, Schurig, and Williams; nays: none. **MOTION CARRIED.**

Enter into closed session at 8:20 p.m.

Marshall City Council, Regular Session
Monday, April 4, 2016
Unofficial

Return to open session at 9:45 p.m.

ADJOURNMENT

The meeting was adjourned at 9:45 p.m.

Jack Reed, Mayor

Trisha Nelson, City Clerk